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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/685,309	10/14/2003	Philip Andrew Frank	005127.00467	9840
22909	7590	10/12/2004	EXAMINER	
BANNER & WITCOFF, LTD. 1001 G STREET, N.W. WASHINGTON, DC 20001-4597				MITCHELL, KATHERINE W
ART UNIT		PAPER NUMBER		

3677
DATE MAILED: 10/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/685,309	FRANK, PHILIP ANDREW	
	Examiner Katherine W Mitchell	Art Unit 3677	
-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --			
Period for Reply			
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.			
<ul style="list-style-type: none"> - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). 			
Status			
1) <input checked="" type="checkbox"/> Responsive to communication(s) filed on <u>14 July 2004</u> . 2a) <input type="checkbox"/> This action is FINAL. 2b) <input checked="" type="checkbox"/> This action is non-final. 3) <input type="checkbox"/> Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.			
Disposition of Claims			
4) <input checked="" type="checkbox"/> Claim(s) <u>1-50</u> is/are pending in the application. 4a) Of the above claim(s) <u>1-28</u> is/are withdrawn from consideration. 5) <input type="checkbox"/> Claim(s) _____ is/are allowed. 6) <input checked="" type="checkbox"/> Claim(s) <u>29-50</u> is/are rejected. 7) <input type="checkbox"/> Claim(s) _____ is/are objected to. 8) <input type="checkbox"/> Claim(s) _____ are subject to restriction and/or election requirement.			
Application Papers			
9) <input checked="" type="checkbox"/> The specification is objected to by the Examiner. 10) <input type="checkbox"/> The drawing(s) filed on _____ is/are: a) <input type="checkbox"/> accepted or b) <input type="checkbox"/> objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) <input type="checkbox"/> The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.			
Priority under 35 U.S.C. § 119			
12) <input type="checkbox"/> Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) <input type="checkbox"/> All b) <input type="checkbox"/> Some * c) <input type="checkbox"/> None of: 1. <input type="checkbox"/> Certified copies of the priority documents have been received. 2. <input type="checkbox"/> Certified copies of the priority documents have been received in Application No. _____. 3. <input type="checkbox"/> Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received.			
Attachment(s)			
1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.		4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____. 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) 6) <input type="checkbox"/> Other: _____.	

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of claims 29-50 in the reply filed on 7/14/2004 is acknowledged.
2. Claims 1-28 were withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected band, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 7/14/2004.

This application contains claims 1-29 drawn to an invention nonelected with traverse in Paper filed 7/14/2004. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Claim Objections

3. Claims 33,34,49,50 are objected to because of the following informalities: "a pair of cover member" should be --a pair of cover members--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
5. Claims 31-42 and 46 and 48 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Re claims 31-39: Applicant discloses "a plurality of links each including a cover

member"; thus necessarily there are a plurality of cover members. Applicant then discloses that "the cover member" has further limitations. Applicant must refer to either --the plurality of cover members-- or --one of said cover members-- or otherwise properly refer to the fact that each of the plurality of links has a cover member. As written, the cover member must be a component of the links.

Re claims 40-41: Similarly, multiple extension elements have been disclosed; thus "the extension element" is unclear.

Re claim 42: Similarly, multiple first springbars and multiple second springbars have been disclosed.

Re claim 46: Similarly, multiple first channels and multiple second channels have been disclosed.

Re claim 48: Claim 47 lines 6-7 disclose "a plurality of links joined by springbars", but claim 58, which depends from claim 47, discloses that one of the springbars connects the band to the case, and one of the springbars secures the cover member to the case, thus not joining a plurality of links.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

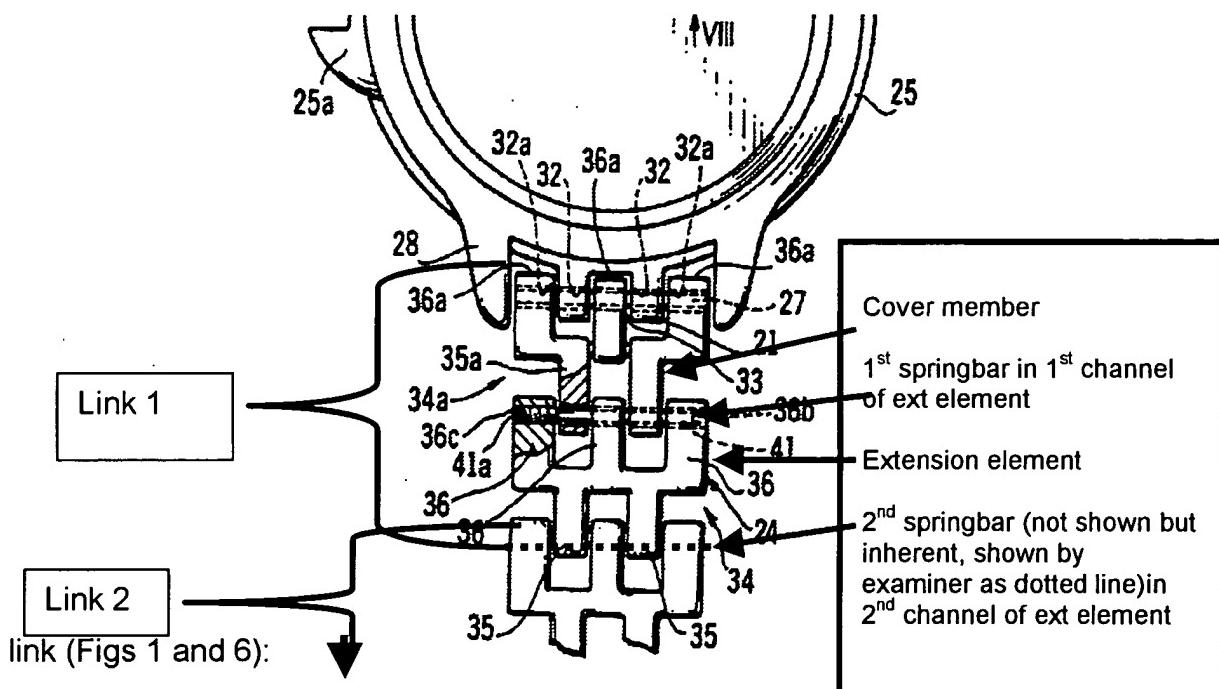
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 29-30 and 35-38 and 43-46 are rejected under 35 U.S.C. 102(b) as being anticipated by Kikuchi.

Re claim 29 and 46: Kikuchi teaches a wrist worn timepiece (inherent in watchband, as shown in Figure 1) comprising a case (1) defining a recess and a timing element positioned within the recess (annular middle 5 for movement of a watch to be mounted) (col 2 lines 40-43).

A band (4) extends from at least one side of the case (col 2 lines 62-64), the band having a plurality of links, each link having a cover member, an extension element, a 1st springbar extending through a first channel in the extension element to secure the extension element to the cover member, and a second springbar extending through a second channel in the extension element to joint the extension element to an adjacent

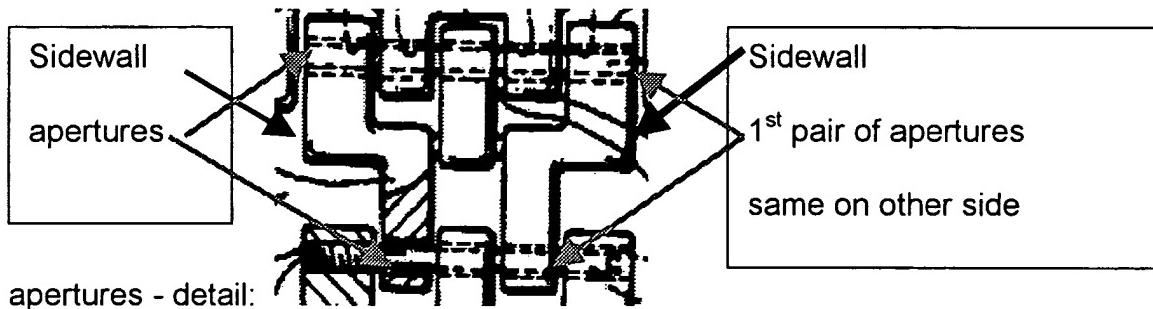


Note that col 4 line 32 specifically states that a pin, springbar, or screw are equivalent connectors. Note that the two channels are parallel

Re claim 30: a crystal over the timing element is shown in Fig 5 and described in col 3 lines 1-3.

Re claim 35: the cover member (see Fig above) has a first pair of apertures that receive end portions of the first springbar to secure the extension element to the cover member (springbar shown as passing thru, and described in col 4 lines 22-33, with cover being called 34a and extension member being called 34). Note that col 4 line 32 specifically states that a pin, springbar, or screw are equivalent connectors.

Re 36: Figure 6 shown above shows the cover member with a primary surface (center top portion between the two bent sidewall portions) and a pair of sidewalls extending outward from primary surface, each sidewall defines one of the pair of



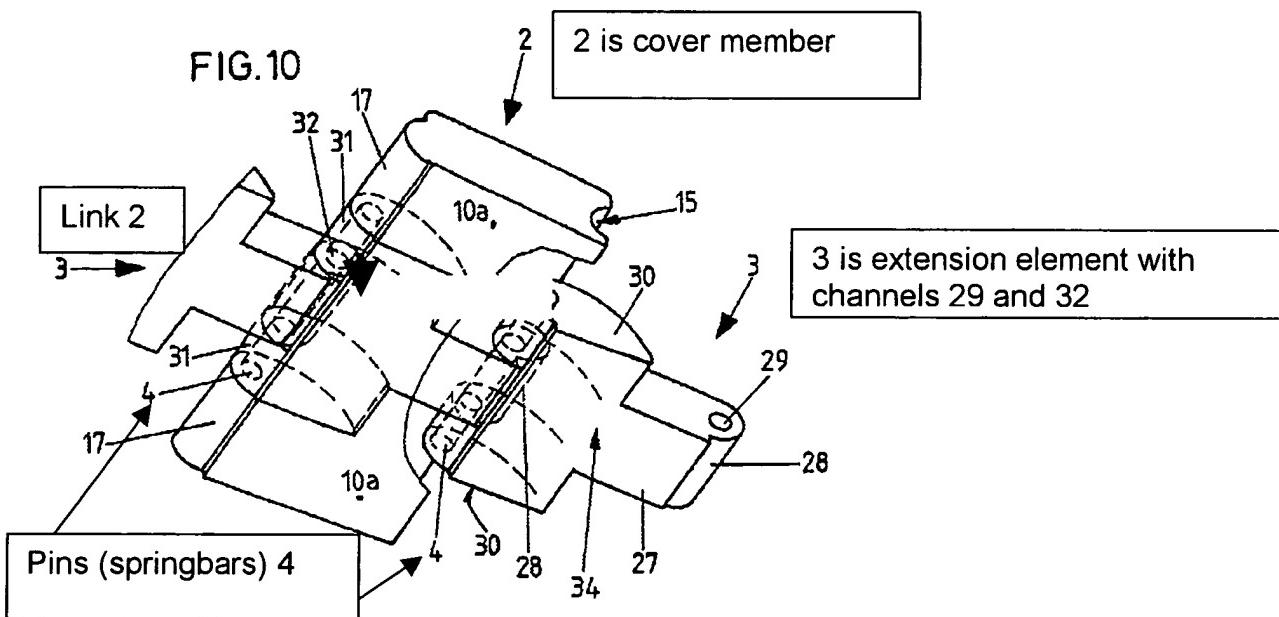
Re claims 37-38 - Fig 6 shows the joining to adjacent separate elements and cover member configured to join with end members of adjacent springbar.

Re claims 43-44: Links forming first and second bands are shown in Kikuchi Figs 1 and 6, each band portion having an end configured to join the case(at 8).

Re claim 45: Since the band is not expandable or stretchable, and the watch is worn on a wrist without falling off to be functional, there is inherently a clasp of some sort connecting the two band portions to each other.

8. Claims 29-30, 37-39, 43-46 are rejected under 35 U.S.C. 102(b) as being anticipated by Delacretaz USP 6101842.

Re claims 29, 46: Delacretaz teaches a wrist worn timepiece (inherent in watchband, as shown in Figure 1) comprising a case defining a recess (Fig 1 and 6) and a timing element positioned within the recess (inherent in a functional watch of Fig 1 and 6). A band extends from at least one side of the case (Fig 1), the band having a plurality of links, (Fig 3) each link having a cover member (2), an extension element (3) (best seen assembled in Fig 10 and separate in Figs 7-9), a 1st springbar (4 - pin must inherently have some spring to function) extending through a first channel in the extension element to secure the extension element to the cover member, and a second springbar extending through a second channel in the extension element to joint the extension element to an adjacent link. Note the channels are parallel.



Re claim 30: a crystal over the timing element would be inherent in a watch as shown in Figs 5-6.

Re claims 37-38 - Fig 10 above shows the joining to adjacent separate elements and cover member configured to join with end members of adjacent springbar.

Re claim 39: Metal cover members are taught in col 1 lines 56-60.

Re claims 43-44: Links forming two band portions configured to join with the case are shown in Fig 1

Re claim 45: A clasp is taught in col 4 lines 8-10.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 39-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kikuchi in view of So et al. US PAP 2003/0121280. Kikuchi teaches all the elements except the material of construction . So et al. teaches a watchband made of links made of metallic material and flexible polymer material such as polyurethane in col 1 paragraph [0006]. Paragraph [0021] teaches that the metal can be shiny and add a decorative aesthetic appearance. Since the metal is described as exposed, it must at least partially be exposed and thus meet the definition of a cover member. Paragraph [0146] teaches that the polymer portion provides lighter weight, and helps protect the metallic portion.

Therefore, it would have been obvious to one of ordinary skill in the art, having the teachings of Kikuchi and So before him at the time the invention was made, to

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modify Kikuchi as taught by So to include links of metallic and polymer materials, including polyurethane, in order to obtain an aesthetically appealing, lightweight, and durable watchband. One would have been motivated to make such a combination because watchbands are considered both jewelry, so that aesthetics are important, and also functional, so durability is important. Further, a lightweight watchband would be more comfortable to wear on the wrist.

11. Claims 29-39 and 42-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koenuma in view of Polansky et al USP 6053630 and Shingo et al USP 4627737, hereafter called Shingo.

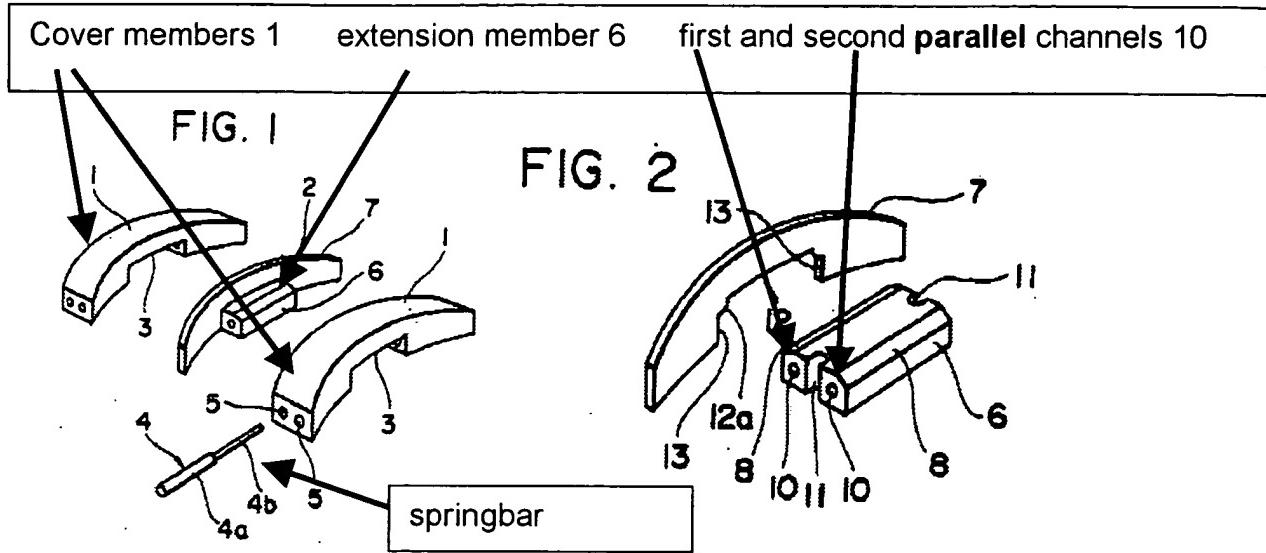
Re claims 29-30 and 42 and 46: Koenuma teaches a watch band with a plurality of links (col 1 lines 32-48) extending from at least one side of a case (15), each link including a cover member (1), an extension element (6) a 1st bar (4) extending thru a first channel (10) in the extension element to secure the extension element to the cover member, and a 2nd bar extending through a 2nd parallel channel in the extension element to join the extension element to an adjacent link. Examiner notes the broadest definition of channel does not require a through channel.

chan·nel (chān'ēl) noun

Abbr. chan.

6. A course or passage through which something may move or be directed: *new channels of thought; a reliable channel of information.*¹

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However, Koenuma is not specific that the band is connected to a case with a recess having a timing element within the recess, and that the bar is a springbar. Shingo teaches that it is well known to have a watch timing element in a recess of a watch case in col 2 lines 44-48 and Fig 3 shows the face obviously covered by a protective crystal. Polansky teaches a springbar for connecting links of a watchband in Fig 4, and teaches that the springbar 30 with end portions 32 and 32' which compress into the main body 31 of springbar 30 (col 5 lines 53- col 6 line 40), noting that the spring action of the two ends allows a secure fit and attachment of the links while allowing easy assembly by unskilled persons without special tools. Therefore, it would have been obvious to one of ordinary skill in the art, having the teachings of Koenuma and Shingo and Polansky before him at the time the invention was made, to modify Koenuma as taught by Polansky to include double ended springbars of Polansky, in order to obtain secure and easy to use connectors, and to recess the watch timing element in the case under a transparent crystal to protect the timing element while allowing the display to remain

visible. One would have been motivated to make such a combination because a watchband easy to adjust and assemble would have been obtained, as taught/suggested by Polansky, and a viewable but protected timing element would be desirable when being worn on a wrist and likely knocked about and impacted.

Re claims 31 and 33-34 and 47 and 49-50: As best understood by examiner, Shingo shows a cover element extending over a portion of the crystal in Fig 6, which further shows a pair of cover members over the crystal. The covers are movable, and extend over opposite sides of the crystal with the timing element visible between them (Fig 6)

Re claims 32, 35-38 and 48: The Figures above from Koenuma show the springbars through the apertures and adjoining the extension element with the case or cover member. The sidewalls with apertures are best seen in Fig 1, also above.

Re claim 39: A metal cover member is taught in col 2 lines 31 of Shingo for a pleasant appearance.

Re claim 43: Links forming first and second bands are shown in Koenuma Fig 6, in that one end of a band is attached to a watch case, thus obviously the other side of the case would also have a band attached.

Re claim 44-45: Fig 6 shows links forming a band portion configured to connect to the case, and examiner takes Official Notice that two such band portions with a clasp to connect them together are well known in the watch art to allow watches to be taken on and off easily.

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12. Claims 40-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koenuma in view of Shingo and Polansky as applied above and further in view of So et al. US PAP 2003/0121280. Koenuma in view of Shingo and Polansky as applied above teaches all the elements except the material of construction . So et al. teaches a watchband made of links made of metallic material and flexible polymer material such as polyurethane in col 1 paragraph [0006]. Paragraph [0021] teaches that the metal can be shiny and add a decorative aesthetic appearance. Since the metal is described as exposed, it must at least partially be exposed and thus meet the definition of a cover member. Paragraph [0146] teaches that the polymer portion provides lighter weight, and helps protect the metallic portion.

Therefore, it would have been obvious to one of ordinary skill in the art, having the teachings of Koenuma in view of Shingo and Polansky as applied above and So before him at the time the invention was made, to modify Koenuma in view of Shingo and Polansky as applied above as further taught by So to include links of metallic and polymer materials, including polyurethane, in order to obtain an aesthetically appealing, lightweight, and durable watchband. One would have been motivated to make such a combination because watchbands are considered both jewelry, so that aesthetics are important, and functional, so durability is important. Further, a lightweight watchband would be more comfortable to wear on the wrist.

13. Claims 40-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Delacretaz in view of So et al. US PAP 2003/0121280. As discussed above, Delacretaz teaches all the elements except the material of construction . So et al. teaches a

watchband made of links made of metallic material and flexible polymer material such as polyurethane in col 1 paragraph [0006]. Paragraph [0021] teaches that the metal can be shiny and add a decorative aesthetic appearance. Since the metal is described as exposed, it must at least partially be exposed and thus meet the definition of a cover member. Paragraph [0146] teaches that the polymer portion provides lighter weight, and helps protect the metallic portion.

Therefore, it would have been obvious to one of ordinary skill in the art, having the teachings of Delacretaz and So before him at the time the invention was made, to modify Delacretaz as taught by So to include links of metallic and polymer materials, including polyurethane, in order to obtain an aesthetically appealing, lightweight, and durable watchband. One would have been motivated to make such a combination because watchbands are considered both jewelry, so that aesthetics are important, and functional, so durability is important. Further, a lightweight watchband would be more comfortable to wear on the wrist.

14. Claims 47-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koenuma in view of Shingo and Polansky as applied above and further in view of So et al. US PAP 2003/0121280. Koenuma in view of Shingo and Polansky as applied above teaches all the elements except the material of construction. So et al. teaches a watchband made of links made of metallic material and flexible polymer material such as polyurethane in col 1 paragraph [0006]. Paragraph [0021] teaches that the metal can be shiny and add a decorative aesthetic appearance. Since the metal is described as exposed, it must at least partially be exposed and thus meet the definition of a cover

member. Paragraph [0146] teaches that the polymer portion provides lighter weight, and helps protect the metallic portion.

Therefore, it would have been obvious to one of ordinary skill in the art, having the teachings of Koenuma in view of Shingo and Polansky as applied above and So before him at the time the invention was made, to modify Koenuma in view of Shingo and Polansky as applied above as further taught by So to include links of metallic and polymer materials, including polyurethane, in order to obtain an aesthetically appealing, lightweight, and durable watchband. One would have been motivated to make such a combination because watchbands are considered both jewelry, so that aesthetics are important, and functional, so durability is important. Further, a lightweight watchband would be more comfortable to wear on the wrist.

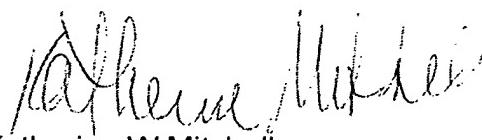
Conclusion

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Katherine W Mitchell whose telephone number is 703-305-6713. The examiner can normally be reached on Mon - Thurs 10 AM - 8 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on 703-306-4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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17. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Katherine W Mitchell
Patent Examiner
Art Unit 3677

Kwm
9/30/04